

**REMARKS**

Claims 1-3, 5-6, and 8-10 are pending in the application; claims 4 and 7 are canceled.

**Claim Rejections - 35 U.S.C. 112**

Claims 1-3 and 5-10 stand rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite because of the term "widened support surface" as it is not clear how the support surface is widened and relative to what the surface is wider.

Claim 1 and claim 10 have been amended to define first and second portions of the support surface so that one can be defined to be wider than the other.

Claim 10 is rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite because of the language referring to at least one row of battery cells and the subsequent wording relating to two cells being adjacently positioned in the transverse direction.

Claim 10 has been amended to define that the displaced row portion provides a space for at least one additional individual battery cell so that two of the individual battery cells are positioned adjacent to one another in the transverse direction within the displaced row portion and the space.

Reconsideration and withdrawal of the rejection of the claims pursuant to 35 USC 112 are therefore respectfully requested.

**Rejection under 35 U.S.C. 102**

Claims 1-3, 5, 7, 8, and 10 stand rejected under 35 U.S.C. 102(e) as being anticipated by *White et al. (US 6,326,101)*.

Claim 1 has been amended to include the feature that the protective housing has a configuration that is determined by the arrangement of the individual battery cells. This is disclosed in the instant specification in paragraph 0020. This is also apparent from Fig. 3. Also, Fig. 3 shows the "widened" support surface area (area 26 is wider than the area of the support surface with two parallel rows of cells 27, 27").

Claim 10 has been amended likewise.

U.S. 6,326,101 discloses a battery housing that is tub-shaped and houses several batteries of different sizes (Fig. 6). The battery arrangement to the left of Fig. 6 shows three large batteries and two small batteries; the arrangement to the right shows eight large

batteries and one small battery arranged centrally within a circle of six large ones. The oval housing wall does not have a configuration that is determined by the battery arrangements. There is a large spacing between the outline of the battery arrangements and the housing wall; the configuration of the housing wall about the first battery arrangement to the left of Fig. 6 is the same as the one to the right - no matching of the housing wall to the battery arrangement is shown. The housing configuration is independent of the type of battery arrangement inside. The housing has no first and second portions of the support surface where the second portion is wider than the first portion in the transverse direction. The batteries are spaced from one another and spaced from the housing wall so that the battery pack as a whole is large and bulky; when mounted on a tool, the tool/battery pack combination is unwieldy.

According to the present invention, the housing configuration is matched to the battery arrangement. As shown particularly in Fig. 3, the housing contour follows the contour of the battery arrangement; the housing is "cross-shaped" to match the "cross-shaped" battery arrangement. The first portion of the protective housing and of the support surface is matched to the two parallel rows of cells; the second portion of the housing and of the support surface is wider in accordance with the outwardly displaced battery cells. The second portion of the support surface is wider transversely to the longitudinal center axis of the tool housing. The lateral displacement of the individual battery cells out of the parallel rows leads to the protective housing and the support surface of the battery pack to be enlarged transversely to the longitudinal center axis; the wider second portion of the housing and of the support surface provides the power tool when put down on a surface with improved upright stability. The dead space between adjacently positioned battery cells is reduced and a reduction of the length of the battery pack results. The battery pack is of a small and compact size.

Reconsideration and withdrawal of the rejection of the claims pursuant to 35 USC 102 are therefore respectfully requested.

**Rejection under 35 U.S.C. 103**

Claims 6 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *White et al. (US 6,326,101)*.

Claim 6 is believed to be allowable as a dependent claim.

In regard to claim 9, the claim language has been clarified in that batteries of identical size are used. This is not shown in the prior art reference where clearly batteries of different sizes are arranged in the housing.:

**CONCLUSION**

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or e-mail from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on February 17, 2006.

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